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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/661,994

09/12/2003

Douglas W. Reitz

F8-6068 (9460-0001)

9335

69275

7590

12/13/2007

COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER, LT
200 WEST ADAMS STREET
SUITE 2850
CHICAGO, IL 60606

EXAMINER

LITHGOW, THOMAS M

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

12/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/661,994

Applicant(s)

REITZ ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-14,16,17,19-22,48-53,55-59 and 65 is/are pending in the application.
- 4a) Of the above claim(s) 56-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-14,16,17,19-22,48-53,55 and 65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

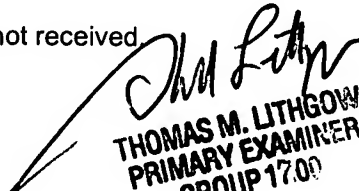
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.


THOMAS M. LITHGOW
PRIMARY EXAMINER
GROUP 17.00

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 49, 9 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1106192 (see equivalent US 7060183). Reference is made to the US equivalent '183 for an explanation of the rejection.

However it is noted that it is EP '192 applied against the claims. US '183 includes a rigid filter housing having two bonded [col. 4, line 25+] half shells (6 and 7), with a filter media (removal medium) 5 which may be multiple layered [col. 1, line 60]. There are two embodiments disclosed in US '183. The first embodiment includes the filter held in a flexible frame 20,21 and this flexible frame is attached to the housing via a (injectable) sealant-silicon. The second embodiment includes the sealant being disposed between the outer periphery of the filter and the inside wall of the rigid outer casing [1, 49-52]. The claims as presented read on both embodiments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,4, 6-8, 11-13, 16-17 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '192 as applied to claim 49 above, and further in view of any one of Myers (US 616653) or Rosenberg (US 4326957) or Stankowski (US 5269917) or Meyst (US 4157967).

Stankowski '917 discloses a fluid filtration device having opposed housing members bonded to each other via ultrasonic welding [col. 1, line 51] along with a tongue and groove arrangement (see shield 36 and opposed groove 37 (fig. 1-2). This arrangement provides for an improved seal between the housing sections since the plastic melt from the bonding process has a place to flow [col. 3, lines 50+]. Myers '653 and Rosenberg '957 and Meyst '967 have similar disclosures. As EP '192 relies upon ultrasonic bonding techniques to attach his two housing pieces together, it would have been obvious to one of ordinary skill in the art to employ the advantageous

tongue and groove arrangement to facilitate the attaching of the two bonded housing sections together.

5. Claims 19-21 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '192 as applied to claim 49 above, and further in view of Hammer (US 4009714). Hammer '714 discloses a "flow-through" device having a housing 10, 11 bonded to each other [col. 3, lines 21+] to form a unit housing for holding a filter 14. Hammer '714 employs inlet and outlet conduits 12 and 13, which appear to be formed with the housing sections 10, 11. The inlet to the housing is noted to be at 15 and the outlet at 16, which is above and diametrically opposite the inlet 15. This arrangement assists in removing air from the unit as it is primed by the initial liquid flow thus preventing future gas lock conditions. To so modify the inlet/outlet arrangement of EP '192 would have been obvious to one of ordinary skill in the art.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 19 above, and further in view of Hei (PGP 2001/0009756). Hei '756 discloses the use of plural stage filter device having three nested filters 3-5 (see fig. 14) mounted in a fluid filter device which has opposed sealed housing portions and at least one of the

stages is a sorbent in a binder as recited in claim 22. To so modify EP '192 with the taught features of Hei '756 would have been obvious to one of ordinary skill at the time of the invention who seeks to remove the specific compounds disclosed in Hei '756 from the blood prior to reinjecting the blood back into the patient by employing the specific filter media of a sorbent with a plastic binder.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP '192 as applied to claim 9 above, and further in view of Meyst '967. The use of polymethyl methacrylate (PMMA) as bondable housing material for a blood filter is taught by Meyst '967 [2, 65+]. To use a known material for its intended use in EP '192 would have been within the ordinary skill in the art.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 13 above, and further in view of Sinko (US 4453927). The use of radial ribs as taught by Sinko '927 (figs 2-3) instead of parallel ribs as taught by the prior art would still achieve the intended benefit of supporting the filter and allowing sufficient flow at the same time. To substitute one equivalent pattern for another pattern would have been obvious to one of ordinary skill in the art.

9. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP '192 as applied to claim 49 above, and further in view of either one of Markley (US3864265) or Lobdell (US 4163721). EP '192 already teaches the use of an adhesive to bond his housing portions. Either one of Markley '265 or Lobdell '721 disclose preforming the filter device and then injecting the sealant via an injection ports. To include an injection port for an adhesive/sealant would have been obvious in view of the prior art's recognition of employing injection ports for assembly adhesives.

10. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP '192 as applied to claim 49 above, and further in view of Mohiuddin (US 6364864). The use of a disk of sintered polymer in a flow through filter device is well known and taught by Mohiuddin '864. To so employ this particular filter in EP '192 would have been obvious to one of ordinary skill in the art at the time of the invention.

Response to Arguments

11. Applicant's arguments with respect to all of the claims have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose

telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas M. Lithgow
Primary Examiner